

Application Serial No. 10/524,217
Attorney Docket No. 10191/3723
Reply to Office Action of October 20, 2008

AMENDMENTS TO THE DRAWINGS:

The accompanying Replacement Sheet is for Figs. 1 and 2, and replaces the original sheet. In Figs. 1 and 2, handwritten characters have been replaced with typed characters. No new matter has been added. Approval and entry are respectfully requested.

Attachments: 1 Replacement Sheet

REMARKS

Claim 11 is added, and therefore claims 6 to 11 are now pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

The drawings were objected to because of minor formalities. The accompanying Replacement Sheet is for Figs. 1 and 2, and replaces the original sheet. In Figs. 1 and 2, handwritten characters have been replaced with typed characters. No new matter has been added. Approval and entry are respectfully requested. Withdrawal of the objection to the drawings is therefore respectfully requested.

Claim 7 was rejected under 35 U.S.C. § 112, first paragraph, as to the written description requirement. While the rejections may not be agreed with, to facilitate matters Claim 7, as presented, omits the prior amendments, thereby obviating any concern. Withdrawal of the written description rejection is therefore respectfully requested.

Claims 6, 7, 9, and 10 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,513,829 ("Zumpano") in view of U.S. Patent No. 5,748,075 ("Dirmeyer").

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co.*,

Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

While the rejections may not be agreed with, to facilitate matters, claim 6 has been rewritten to clarify the claimed subject matter.

Claim 6, as presented, includes the feature of *at least two pressure sensors each detecting an impact to a vehicle based on adiabatic pressure increase, in which the at least two pressure sensors are connectable to the processor to communicate at least one pressure value each to the processor, the processor being configured to perform an impact sensing based on the at least one pressure value, in which the processor is connectable to at least one restraining system, and wherein the processor is connected to at least one vehicle system besides said at least two pressure sensors and besides any restraining systems to transmit the at least one pressure value to the at least one vehicle system.*

The Office Action conclusorily asserts that the embodiment of Figure 29 of the “Zumpano” reference illustrates a restraining system that includes an inflatable member which is connected to the processor. The Office Action also conclusorily asserts that Figures 26 and 27 of the “Zumpano” reference illustrate an embodiment in which the restraining system does not include inflatable members and in which the inflatable members are connected to the vehicle and processor and not to the restraining system.

In other words, the Office Action seems to assert that the inflatable members of Figures 26 and 27 of the “Zumpano” reference correspond to the *at least one vehicle system* of claim 6. The Office Action seems to reason that the inflatable members of Figures 26 and 27 of the “Zumpano” reference are separate from the restraining system of Figure 29.

In contrast, claim 6, as presented, includes the features in which *the processor is connected to at least one vehicle system besides said at least two pressure sensors and besides any restraining systems to transmit the at least one pressure value to the at least one vehicle system.* In other words, the *at least one vehicle system* of claim 6 is defined so as to exclude *restraining systems*.

The inflatable members of Figures 26 and 27 of the “Zumpano” reference do not disclose nor even suggest the feature of *at least one vehicle system besides any restraining systems*, as provided for in the context of the claimed subject matter. This is because the inflatable members of Figures 26 and 27 of the “Zumpano” reference are part of a restraining system. Accordingly, the “Zumpano” reference does not disclose nor even suggest feature in

which *the processor is connected to at least one vehicle system besides said at least two pressure sensors and besides any restraining systems to transmit the at least one pressure value to the at least one vehicle system.*

The “Dirmeyer” reference also does not nor even suggest the feature in which *the processor is connected to at least one vehicle system besides said at least two pressure sensors and besides any restraining systems to transmit the at least one pressure value to the at least one vehicle system.*

Accordingly, claim 6 is allowable as are its dependent claims 7, 9 and 10.

Claim 8 was rejected under 35 U.S.C. § 103(a) as unpatentable over the “Zumpano” reference in view of the “Dirmeyer” reference and further in view of U.S. Patent No. 6,269,903 (“Bohner”).

Claim 8 depends from claim 6, and is therefore allowable for essentially the same reasons as claim 6, since the secondary “Bohner” reference does not overcome — and is not asserted to overcome — the critical shortcomings of the primary “Zumpano” reference in view of the “Dirmeyer” reference as applied to claim 6.

New claim 11 does not add any new matter and is supported by the present application. Claim 11 depends from claim 6 and is therefore allowable for at least the same reasons as claim 6.

In summary, all of pending claims 6 to 11 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all pending claims 6 to 11 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

KENYON & KENYON LLP

Dated: 1/20/2009

By: 

Gerard A. Messina
Reg. No. 35,952

One Broadway
New York, NY 10004
(212) 425-7200

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Hansen C
JEDITKA)*

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